

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Complaints Regarding Various Television)
Broadcasts Between February 2, 2002 and)
March 8, 2005; Court Remand of Section)
III.B of the Commission's March 15, 2006)
Omnibus Order Resolving Numerous)
Broadcast Television Indecency Complaints)
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DA 06-1739

**COMMENTS OF ADAM THIERER, SENIOR FELLOW WITH THE PROGRESS &
FREEDOM FOUNDATION ("PFF") AND THE DIRECTOR OF PFF'S CENTER FOR
DIGITAL MEDIA FREEDOM**

"The Current State of Parental Controls (and What it Means For This Debate)"

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EXECUTIVE SUMMARY:

“The Current State of Parental Controls (and What it Means For This Debate)”

The debate over the programs in question in this matter is a heated affair raising complicated and controversial questions about the desirability of certain types of programming on broadcast television. But the focus of this inquiry should instead be on the extent to which consumer and parental empowerment can solve the problem at hand without resorting to intrusive government regulation.

Consumers and parents have the ability to effectively filter and block undesirable programming within their homes today. The combination of the V-Chip, set-top box parental controls, various ratings systems, and other technological tools screening technologies (personal video recorders in particular) mean that parents now have multiple layers of technological protection at their disposal. And industry-led educational efforts illustrate that media operators *are* taking steps to help parents make content determinations and better control child access to unwanted media. Critics can always argue that media and communications companies should “do more” to address the concerns parents have, but it’s important to realize that they are already doing quite a bit.

Thus, the traditional rationales the agency relies on to regulate broadcast content—that it is “uninvited” into the home and that parents are powerless to control it—have been rendered moot. Regulation can no longer be premised upon the supposed helplessness of households to deal with content flows since families have been empowered and educated to make content determinations for themselves.

Moreover, decisions about acceptable media content are extraordinarily personal; no two people or families will have the same set of values, especially in a nation as diverse as ours. Defining which “community standard” is appropriate for purposes of regulating broadcast content, therefore, is increasingly difficult and raises serious First Amendment concerns. It

would be optimal if public policy decisions in this field took into account the extraordinary diversity of citizen / household tastes and left the ultimate decision about acceptable programming to them. In this sense, the most important “community standard” is the household standard; the standard that each family sets for itself.

Again, new tools and technologies give individuals and families the ability to effectively set household standards on their own. Of course, whether or not parents are taking advantage of those tools and options is another matter entirely. *But if, for whatever reason, parents are not taking advantage of these tools and options, their inaction should not be used to justify government regulation of programming as a surrogate for household / parental choice. Parents have been empowered. It is now their responsibility to take advantage of the tools and controls at their disposal to determine what is acceptable within their homes for their families.*

Finally, it is important to realize that not only are markets bringing parents empowering tools to filter and block content they might find objectionable, but this is being done much more quickly, much more closely tailored to the parents’ own desires, and without concerns about censorship such as is associated with traditional government regulatory efforts.

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COMMENTS OF ADAM D. THIERER, THE PROGRESS & FREEDOM FOUNDATION

Adam Thierer, Senior Fellow with The Progress & Freedom Foundation ("PFF") and the director of its Center for Digital Media Freedom,¹ hereby offers comments in response to the Public Notice in the above-captioned matter, *FCC Announces Filing Procedures in Connection with Court Remand of Section III.B of the Commission's March 15, 2006 Omnibus Order Resolving Numerous Broadcast Television Indecency Complaints*, DA 06-1739 (rel. Sept. 7, 2006).

I. INTRODUCTION

The Commission has requested expedited comments in the matter of the Second Circuit U.S. Court of Appeals' remand of the Commission's order in *Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005*. To be sure, the debate over the programs in question is a heated affair raising complicated and controversial questions about the desirability of certain types of programming on broadcast television.

In these comments, however, I wish to avoid the subjective debate over specific programs or incidents and instead focus on the extent to which consumer and parental empowerment can

¹ While Mr. Thierer holds these positions with PFF, the views expressed are his own.

solve the problem at hand without resorting to intrusive government regulation. Because if it is the case that consumers and parents have the ability to effectively filter and block undesirable programming within their homes, then the traditional rationales the agency relies on to regulate broadcast content—that it is “uninvited” into the home and that parents are powerless to control it—will have been rendered moot. As I will show here, that day is upon us.

II. THE MOST IMPORTANT “COMMUNITY STANDARD”: THE HOUSEHOLD / FAMILY STANDARD

There are endless debates in this field over what constitutes the proper “community standard” for purposes of determining the appropriateness of certain types of broadcast programming. This filing will not seek to comment on that thorny debate except to say that perhaps the most important community standard—and the one that is most often overlooked in this debate—is the standard set by the family unit itself.

Decisions about acceptable media content are extraordinarily personal; no two people or families will have the same set of values, especially in a nation as diverse as ours. For example, what is the relevant “community standard” when the counties that constitute the greater Atlanta television market, nearly 58 percent of which voted for President Bush in the last election, make ABC’s controversial drama-comedy “Desperate Housewives” the top-rated show in their communities? Similarly, in the traditionally conservative Salt Lake City market, where President Bush captured over 72 percent of the vote, the top four shows are “C.S.I.,” “C.S.I. Miami,” “E.R.,” and “Desperate Housewives.” The same trend holds in conservative Oklahoma City, where “Desperate Housewives” is more popular than it is in Los Angeles, as well as Kansas City where the show is bigger than it is in New York City.²

² See Bill Carter, “Many Who Voted for ‘Values’ Still Like Their Television Sin,” *The New York Times*, November 22, 2004, p. A1; and Frank Rich, “The Great Indecency Hoax,” *The New York Times*, November 28, 2004, Section 2, p. 1.

It is unclear how the FCC should determine the relevant “community standard” for purposes of regulation when some of the most conservative communities in America are watching controversial programs that many would like to see regulated. Therefore, it would be optimal if public policy decisions in this field took into account the extraordinary diversity of citizen / household tastes and left the ultimate decision about acceptable programming to them. (That’s especially the case in light of the fact that most U.S. households are made up entirely of adults. Only 1/3 of U.S. households include children under 18.)³

In the past, however, it was quite difficult for individual households to tailor programming to their specific needs or values. In essence, the “On/Off” button was the only parental control at our collective disposal (absent the extreme step of removing TVs from the home altogether). In that environment, it was thought that the Commission needed to act as surrogate for parents given the lack of control families had over their viewing decisions / encounters. The FCC’s oversight and regulatory diligence, it was argued, would help prevent “uninvited” programming from “intruding” into the home.⁴ The agency would establish a baseline “community standard” for the entire nation in the absence of effective, household-level controls to restrict potentially objectionable content.

But if it is the case that families now have the ability to effectively do this on their own, then the regulatory equation must change. Regulation can no longer be premised upon the supposed helplessness of households to deal with content flows if families have been empowered and educated to make content determinations for themselves.

Importantly, household-level controls need not be perfect to be preferable to government controls. This is especially the case in light of the First Amendment values at stake here. Absent

³ U.S. Census Bureau, *Statistical Abstract of the United States 2004-2005*, Table No. 56, p. 50, available at <http://www.census.gov/statab/www/>

⁴ *FCC v. Pacifica Foundation*, 438 U.S. 726, 727-8 (1978).

removing all media devices from a home, it would be impossible to eliminate all unwanted or unexpected encounters from life.⁵ Moreover, other media sectors (books, magazines or newspapers, for example) offer far fewer parental controls but receive the maximum protection of the First Amendment. Indeed, in many ways, it is easier to control broadcast television flows today than many other types of media that come into the home or that children have access to.

III. NEW EMPOWERMENT TOOLS AND TECHNOLOGIES

There exist many screening and filtering technologies that parents can tap to limit their children's access to content before asking government officials to intervene. The market for these parental empowerment tools and technological controls is broad and growing.

The existence of these many tools and controls is important because it has a bearing of the legal issues at stake here. In striking down the Communications Decency Act's effort to regulate underage access to adult-oriented websites, the Supreme Court declared in *Reno v. ACLU* that a law that places a "burden on adult speech is unacceptable if less restrictive alternatives would be at least as effective in achieving" the same goal.⁶ Within the realm of television, many such "less restrictive alternatives" are available to parents today to help them shield their children's eyes and ears from content they might find objectionable.

* **V-Chip**: As a standard feature in all televisions 13" and larger built after January 2000, the V-Chip gives households the ability to screen televised content by ratings that are affixed to almost all programs. The V-Chip can be accessed through the setup menus on televisions, or often is just one click away using a designate button on the TV's remote. Households can then

⁵ Of course, this is the case outside the home as well. Consider ballgames, shopping malls, and even parks and playgrounds.

⁶ *Reno v. ACLU*, 521 US 844 (1997).

use password-protected blocking to filter programs by rating. The ratings system⁷ offers the following age-based designations:

“TV-Y” – All Children

“TV-Y7” – Directed to Children Age 7 and Older

“TV-Y7 (FV)” – Directed to Older Children Due to Fantasy Violence

“TV-G” – General Audience

“TV-PG” – Parental Guidance Suggested

“TV-14” – Parents Strongly Cautioned

“TV-MA” – Mature Audience Only

The TV ratings system also uses several specific content descriptors to better inform parents and all viewers about the nature of the content they will be experiencing. These labels include:

“D” – Suggestive Dialogue

“L” – Coarse Language

“S” – Sexual Situations

“V” – Violence

“FV” – Fantasy Violence

These ratings are found at the beginning of programs, on on-screen menus and interactive guides, and in local newspaper or TV Guide listings.

Importantly, the relatively low V-Chip usage rates among households should not be used as an excuse for government regulation of broadcast programming. As discussed below, the vast majority of American homes now rely on many alternative technologies and methods to filter / block unwanted programming. Many families will forgo V-Chip capabilities in light of the alternative technological controls at their disposal, or even the informal household rules that they

⁷ Available online at www.tvguidelines.org/ratings.asp

have established in their homes. In other words, the V-Chip is just one tool or strategy of many that households can use to control content flows in their homes.

* **Cable & satellite TV controls**: With roughly 86 percent of U.S. households subscribing to cable or satellite television systems today,⁸ the tools these sectors provide to users are a vital part of the parental controls mix. In addition to the V-Chip capabilities integrated into all televisions today, cable and satellite set-top boxes offer locking functions for individual channels so that children can't access the channels or programs without a password. Parental controls are usually just one button-click away on most cable and satellite remote controls. Newer, digital boxes offer more extensive filtering capabilities that allow blocking by ratings, channel, or program title. Some systems even allow users to block the program descriptions on the interactive guide (for adult pay-per-view programming, for example) if families don't want them to be visible.⁹

Satellite providers DirecTV¹⁰ and EchoStar's Dish Network¹¹ also offer extensive parental control tools via their set-top boxes. Also, a unique satellite service called Sky Angel offers 33 channels of what it bills as "Christ-centered & family-friendly choice(s)" that households can subscribe to if they only wish to have religious programming available in their homes.¹²

For homes that do not have cable set-top boxes or are still using older, analog cable systems, subscribers can request that cable companies block specific channels for them.

⁸ Federal Communications Commission, *Twelfth Annual Video Competition Report*, February 10, 2006, p. 118.

⁹ For a comprehensive survey of the content controls cable television provider make available to their subscribers, see the National Cable and Telecommunications Association's "Control Your TV" Website: <http://controlyourtv.org>

¹⁰ See www.directv.com/DTVAPP/global/contentPage.jsp?assetId=900007

¹¹ See www.dishnetwork.com/content/programming/parental%5Fcontrol

¹² See www.skyangel.com/

Aftermarket solutions are also available. The “TV Channel Blocker” gives households the ability to block any analog cable channels between 2-86.¹³ The unit can be self-installed by homeowners on the wall where the cable line enters the home and then block specific channels on every television in the home. The unit sells on the Internet for \$99.99.

* **Other devices / technological control measures:** Perhaps the most important development on the parental controls front in the rapid rise and diffusion of VCRs, DVD players, personal video recorders (PVRs) and home computers. These technologies give parents the ability to accumulate libraries of preferred programming for their children and determine exactly when it will be viewed. If certain parents believed that their children should only be raised on reruns of “The Lone Ranger” and “Leave it to Beaver,” then these new media technologies can make it happen.

To use a personal example: My wife and I have developed a strategy of designating a specific television in our home for most of our children’s media consumption and then using a PVR to amass a large library of programming we believe is educational, enriching and appropriate for them. Dozens of programs can be cataloged and archived in this fashion and then supplemented with VHS tapes, DVDs and computer software. Needless to say, such content tailoring was not an option for families in the past.

For those families looking to take more direct steps to specifically curb offensive language heard on some televised programs, solutions are available. For example, over 7 million Americans currently use “TVGuardian” systems, which bill themselves as “The Foul Language Filter.” TVGuardian’s set-top boxes filter out profanity by monitoring the closed-caption signal embedded in the broadcast video signal and comparing each word against a dictionary of more than 150 offensive words and phrases. If the device finds a profanity in this broadcast, it

¹³ See www.tvchannelblocker.com/

temporarily mutes the audio signal and displays a less controversial rewording of the dialog in a closed-captioned box at the bottom of the screen.¹⁴ Also, the device can be tailored to individual family preferences such that references that some might consider religiously offensive would be edited out.

Or perhaps some households want to block out *all* programming aired during certain hours of the day. Technological tools exist that make that possible, too. The Family Safe Media website sells a half dozen “TV time management” tools that allow parents to restrict the time of day or aggregate number of hours that children watch programming.¹⁵ Parents can establish a daily or weekly “allowance” of time for TV viewing and then let children determine how to allocate it. Prices for these devices range from \$39.95-\$110.95.

Another innovative technology to restrict viewing options by children is the appropriately named the “Weemote.” It is a remote control made for children that has just a handful of large buttons. Parents can program each button to call up only those pre-set channels that they approve of for their children. No other channels can be accessed using the remote. The product has a suggested retail price of \$24.95.¹⁶

IV. FORMAL AND INFORMAL HOUSEHOLD MEDIA RULES

These technological tools and controls discussed above allow parents to automate the filtering / blocking process in their homes. While not perfect, they allow households to effectively tailor family viewing to their own unique preferences.

Equally as important, however—and quite often overlooked—are the formal and informal household “media rules” that almost all families utilize. A 2003 Kaiser Family

¹⁴ See www.tvguardian.com

¹⁵ See www.familysafemedia.com/tv_time_management_tools_-_par.html

¹⁶ See www.weemote.com

Foundation survey found that “Almost all parents say they have some type of rules about their children’s use of media.”¹⁷ For example, parents can place limits on the overall number of hours that children can “consume” various types of media content. Alternatively, parents can demand that other tasks or responsibilities be accomplished before media consumption is permitted. For example, many of us are familiar with this common household media rule: “You have to finish your homework before you get to watch any TV.” Parents can also impose restrictions on what times of the day that children can consume media. For example: “No TV after 8:00.” Parents can also limit viewing to a single TV in a room where a parent can always have an eye on the screen, or be listening in.¹⁸

In the extreme, if parents want to take radical steps to limit children’s potential access to objectionable programming, they can get rid of their TV sets and other media devices altogether, or severely restrict their availability in the home. While impractical for most, some families do reject televisions and still find plenty of other ways to gain access to important information and entertainment.¹⁹

Finally, parents can always sit down with their children, “consume” controversial and provocative media programming with them, and talk to them about what they are seeing or hearing. For those parents willing to accept the reality that children *will* be confronted with many troubling or sensitive topics from peers at school or from other sources outside their control, this

¹⁷ *Zero to Six: Electronic Media in the Lives of Infants, Toddlers and Preschoolers*, Kaiser Family Foundation, Fall 2003, p. 9, available at <http://www.kff.org/entmedia/entmedia102803pkg.cfm>

¹⁸ According to another Kaiser survey, 68 percent of 8-18 year-olds have televisions in their bedrooms. *Generation M: Media in the Lives of 8-18 Year-Olds*, Kaiser Family Foundation, March 2005, p. 10, <http://www.kff.org/entmedia/entmedia030905pkg.cfm>. Parents who allow their children to lock themselves in their rooms with media technologies have surrendered their first line of defense for protecting them from potentially objectionable content.

¹⁹ See, for example Rich Karlgaard, “Net—One, TV—Zero,” *Forbes.com*, November 29, 2004, <http://www.forbes.com/columnists/business/forbes/2004/1129/041.html>

option makes a great deal of sense. Most parents already do this, of course. The Kaiser Family Foundation's survey of media usage by children under 6 years of age found that 69 percent of parents were in the room when children were watching TV.²⁰ At the end of the day, there is simply no substitute for talking to children in an open, loving and understanding fashion about the realities of this world, including the more distasteful bits.

Because it is impossible to generalize about the needs of diverse families and parenting choices they make, the government should not impose a one-size-fits-all solution. Once again, the most meaningful measure of community standards is the individual household.

V. THIRD-PARTY RATINGS / ADVICE

Parents can also pressure media providers and programmers directly through public campaigns, or indirectly through advertisers.²¹ Groups like the Parents Television Council, Morality in Media, Common Sense Media, and the National Institute on Media and the Family play a constructive role in influencing content decisions through the pressure they collectively bring to bear on media providers in the marketplace.

Morality in Media's website, for example, outlines several strategies parents can use to influence advertisers, programming executives and cable operators before resorting to regulation.²² Likewise, the National Institute on Media and the Family's "MediaWise" website offers occasional columns and newsletters for parents that include information they can use to

²⁰ *Zero to Six*, p. 11.

²¹ "There is every reason to believe that the marketplace, speaking through advertisers, critics, and self-selection by viewers, provides an adequate substitute for Commission involvement in protecting children and adults from television's "captive" quality." Mark S. Fowler and Daniel L. Brenner, "A Marketplace Approach to Broadcast Regulation," *Texas Law Review*, vol. 60, no. 2, February 1982, p. 229.

²² Morality in Media, "What to Do to Fight Bad TV," available at www.moralityinmedia.org/

make more informed judgments about the content their children consume.²³ In particular, the Institute's website offers a free "KidsScore" system that rates thousands of TV shows, movies and other content. All content is alphabetized and easy to search.²⁴ Similarly, Common Sense Media's comprehensive website allows both parents and children to rate a diverse assortment of media content and then sort it all by age group to find what is appropriate for their families.²⁵

Finally, in March 2006, TiVo announced a partnership with the Parents Television Council, the Parents Choice Foundation and Common Sense Media to jointly develop "TiVo KidZone." Using ratings and information created by those groups, KidZone will allow parents to filter and record only the content that parents deem appropriate for their children.²⁶ All these methods are preferable to the type of pressure that some self-described family advocates bring to bear in the *political* marketplace when they encourage policymakers to regulate broadcast programming.²⁷

VI. INDUSTRY-LED EDUCATIONAL EFFORTS

Meanwhile, industry-led groups and other organizations have developed myriad parental outreach and educational efforts to help families learn more about media content, parental controls, and ratings systems. For example:

* **Television / Broadcasting:** "TV Watch," a coalition of 27 prominent individuals and organizations representing more than 4 million Americans, sponsors initiatives such as the "1-2-

²³ National Institute on Media and the Family website, available at www.mediafamily.org/

²⁴ www.mediafamily.org/kidscore/index.shtml

²⁵ www.common sense media.org

²⁶ Saul Hansell, "TiVo to Offer Tighter Rein on Children's Viewing," *The New York Times*, March 2, 2006, www.nytimes.com/2006/03/02/technology/02tivo.html?_r=1&oref=slogin

²⁷ See generally Adam Thierer, "Examining the FCC's Complaint-Driven Broadcast Indecency Enforcement Process," Progress & Freedom Foundation *Progress on Point* no. 12.22, November 2005, www.pff.org/issues-pubs/pops/pop12.22indecencyenforcement.pdf

3 Safe TV” tool kit for parents.²⁸ The group circulates materials that provide parents easy-to-understand primers on how to safeguard their children against objectionable content on television.²⁹ The effort was spearheaded by media operators such as Viacom, News Corp. and NBC-Universal but also includes groups as diverse as the American Conservative Union, the Black Filmmakers Foundation, Center for Creative Voices in Media, The Creative Coalition, the Minority Media & Telecommunications Council (MMTC) and the US Chamber of Commerce.³⁰

* **Cross-Media:** Much like the Common Sense Media website mentioned above,³¹ the “Pause-Parent-Play” coalition offers a wonderful compendium of websites and services that parents can use to learn more about the media there children might want to see, hear or play.³² The effort is sponsored by an amazingly diverse coalition of companies and associations, including: WalMart, the Girl Scouts, YMCA, Microsoft, Comcast, Time Warner, News Corp., the Electronic Software Association, Viacom, NBC-Universal, the Motion Picture Association of America (MPAA) and the Recording Industry Association of America (RIAA). The coalition’s website features numerous links answering questions about how TV ratings and screening tools work (like the V-Chip and cable / satellite set-top boxes).³³ These TV screening and filtering tools seem to be the source of some confusion for some parents, but the links provided on the Pause-Parent-Play website help parents better understand how to use these technologies (i.e., set-top-box-specific guidelines are provided).

* **Movies:** Movies constitute one of the most popular types of content aired on broadcast

²⁸ www.televisionwatch.org

²⁹ *Safe TV. Easy as 1-2-3 The TV Watch Guide to the TV Ratings and Parental Controls*, TV Watch, www.televisionwatch.org/atf/cf/%7BC38CC853-7DD3-4E60-8787-646324AB1C9F%7D/safe%20tv.pdf

³⁰ By way of full disclosure, I am an individual member of TV Watch.

³¹ www.common sense media.org

³² <http://pauseparentplay.org/>

³³ <http://pauseparentplay.org/see/index.php#tv>

television. Consequently, the motion picture industry's ratings scheme provides important information to parents when they are determining what is appropriate in their homes. Indeed, the movie industry's ratings system is the longest-running and most widely recognized in America. (It also served as the foundation for the television ratings system).

Established by the MPAA and theater operators in 1968, the MPAA's familiar ratings system includes: G – General Audiences (All ages admitted); PG – Parental Guidance (Some material may not be suitable for children); PG-13 – Parents Strongly Cautioned (Some material may be inappropriate for children under 13); R – Restricted (Under 17 requires accompanying parent or adult guardian); and NC-17 (No one 17 and under admitted). These ratings are also accompanied by additional content descriptors explaining what viewers can expect to see in the movie. These ratings and content descriptors appear at the beginning of almost all movies—whether seen at a cinema, on DVD or on television. The MPAA also requires that the ratings appear on all promotional advertising (posters, TV ads, etc.) Finally, the MPAA's website also features a search engine that allows the public to search any movie it has rated since 1968 to find its rating and a description of what sort of content they can expect to see in the motion picture.³⁴

* **Cable:** Again, with roughly 86 percent of all American households subscribing to cable or satellite services, the empowerment tools and educational efforts that these sectors offer are increasingly important. The National Cable and Telecommunications Association (NCTA), the cable industry's trade association, sponsors a \$250 million public service campaign called "Cable Puts You in Control."³⁵ As part of the effort, the industry airs numerous educational ads and distributes materials to subscribers. These materials are also made available to consumers via in-store displays as retailers such as Best Buy and Circuit City. The effort also includes an

³⁴ www.mpa.org/FilmRatings.asp

³⁵ www.ncta.com/pdf_files/Fact-Sheet-on-Cables-Pledge_PDF_4-27-05.pdf

education website (www.controlyourtv.org)³⁶ that offers a variety of educational links and videos showing parents how to block access to certain channels or programs that they might find objectionable.

* **Television / Cross-Media**: At a January 19, 2006 Senate Commerce Committee hearing, Jack Valenti, the former CEO of the MPAA, announced that all media companies “who make and dispatch visual programming” were launching a joint 18-month marketing campaign “to inform and persuade the American people that they have the power” to control the content that appears on their television screens.³⁷

This unprecedented \$250-\$300 million campaign includes participation from the Consumer Electronics Association (CEA); the National Association of Broadcasters (NAB); the Motion Picture Association of America (MPAA); the National Cable & Telecommunications Association (NCTA); Viacom; Time Warner; television broadcast networks ABC, CBS, Fox, and NBC Universal; and satellite TV providers DirecTV and EchoStar’s Dish Network. The Ad Council and various advertising agencies will assist the effort to help craft “simple messages” in public service announcements (PSAs) that would then be broadcast and cablecast by all these media providers over at least an 18-month period.³⁸ The effort also resulted in a website entitled “The TV Boss”³⁹ that displays the resulting PSAs and offers parental control tutorials and other information.

³⁶ www.controlyourtv.org/

³⁷ Tony Sanders, “Visual Media, Ad Council To Link For Decency Campaign,” *Billboard Radio Monitor*, January 19, 2006, http://billboardradiomonitor.com/radiomonitor/news/business/leg_reg/article_display.jsp?vnu_content_id=1001881791

³⁸ “Industries Unite in Unprecedented Effort to Educate Parents That They Have to Tools to Control TV Programming in Their Home,” National Association of Broadcasters *Press Release*, Jan. 19, 2006, www.nab.org/newsroom/PressRel/Releases/indecency_coalition.doc

³⁹ www.thetvboss.org

VII. CONCLUSION

The combination of the V-Chip, set-top box parental controls, various ratings systems, and other technological tools screening technologies (personal video recorders in particular) mean that parents now have multiple layers of technological protection at their disposal. And the industry-led educational efforts highlighted above prove that, contrary to what some critics claim, media operators *are* taking steps to help parents make content determinations and better control child access to unwanted media. Critics can always argue that media and communications companies should “do more” to address the concerns parents have, but it’s important to realize that they are already doing quite a bit.

Of course, whether or not parents are taking advantage of those tools and options is another matter entirely. *But if, for whatever reason, parents are not taking advantage of these tools and options, their inaction should not be used to justify government regulation of programming as a surrogate for household / parental choice. Parents have been empowered. It is now their responsibility to take advantage of the tools and controls at their disposal to determine what is acceptable within their homes for their families.*

Finally, it is important to realize that not only are markets bringing parents empowering tools to filter and block content they might find objectionable, but this is being done much more quickly, much more closely tailored to the parents’ own desires, and without concerns about censorship such as is associated with traditional government regulatory efforts. As Senator Ted Stevens, chairman of the Senate Commerce Committee, recently argued: “Our government should not be in the business of choosing which programs are appropriate for our nation’s children. By showing the public how to use available blocking mechanisms, we ensure those in

the best position to make viewing decisions—parents—are able to do so.”⁴⁰

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⁴⁰ Ted Stevens, “Guest Columnist: State of Decency in DC,” *CableFax*, Vol. 17, No. 69, April 10, 2006, <http://www.broadband-pbimedia.com/cfaxmag/>